

When a fellow makes the same mistake twice he's got to throw up both hands and own up to carelessness or cussedness.—System.

THE SALT LAKE HERALD.

Established June 6, 1870.

SALT LAKE CITY, UTAH. TUESDAY, MAY 4, 1909

12 PAGES. Price, 5 Cents.

Weather for Tuesday.
Fair; warm.
The Metals
Silver, 32 1/2¢ per ounce.
Copper (cathodes), 17 1/2¢ per pound.
Lead, 14 1/2¢ per 100 pounds.

RAILROADS WIN VICTORY BEFORE SUPREME COURT

"Commodities Clause" Is Declared Constitutional, but Scope Is Limited.

GOVERNMENT LOSES MOST OF ITS POINTS

DECISION AFFECTS ALL OF THE ANTHRACITE COAL CARRYING LINES.

Pittsburg, May 3.—Within an hour after the news of the supreme court decision in regard to the Hepburn commodities clause was received here today, a deal was consummated by which the Gould interests will engage in the coal business in this district. Arrangements have been made already, it is said, to produce between 2,000,000 and 2,500,000 tons a year. The mines will be operated by the Pittsburg Terminal & Coal company, and the coal will be sold through a New York concern.

It was intimated that the decision might mean the termination of the receivership of the Western Maryland and other roads, and the development of the holding of the little Kanawha system, purchased jointly by the Pennsylvania, Baltimore & Ohio and the Chesapeake & Potomac railroad for about \$6,000,000.

Washington, May 3.—It has been many a day since a decision of the United States supreme court has been received with as much interest as was manifested today in the reversal of the circuit court's "Commodities clause" decision affecting the anthracite coal-carrying railroads.

These cases had been decided by the circuit court favorably to the railroads in that the clause of the Hepburn rate law which prohibits interstate railroads from carrying commodities manufactured, mined or produced directly or indirectly by the roads, was declared unconstitutional.

The general impression had been that that decision would be affirmed by the supreme court. When, therefore, there was a reversal instead of an affirmation, the interest was much magnified. When again it was found that the reversal was based on technical grounds and that the effect was really favorable to the railroads, sentiment took another turn and those who had been anxiously awaiting the announcement were much puzzled.

The decision was announced by Justice White, who declined to give out more than a summary, showing the net result of the court's finding. Because of the court's delay in announcing its conclusion, it was generally supposed that the court would be found to be much divided. Only one dissenting opinion was announced. Justice Harlan stated that he did not follow the conclusion in the point that the law does not prohibit the railroad ownership of stock in commodities producing companies.

Scope Is Limited.

Analyzed, Justice White's decision is that congress did not transcend its constitutional authority in enacting the commodities provision, but it was held that the government construction of the provision had been entirely too comprehensive. As construed by the court, the sole object of the clause is to prevent carriers from being associated in interest with the commodities transported at the time of transportation.

Summed up, the act only compels companies to disassociate themselves from the products they carry and the government contention that the law applies to the ownership of stock and commodities in transportation of commodities simply because they have been produced by a railroad company is untenable.

The effect of the decision is favorable to the railroads and the government lost on practically all points except in the reversing of the principle involved, in holding that congress had not gone beyond its authority in enacting the law, the court conceding the right to legislate and it is believed that if so disposed congress might enlarge and extend the scope of the provision. The decision sustained the provision of the law exempting timber from the operations of the commodities clause.

This exemption was used as a basis of attack by the railroads on the law as discriminatory, but Justice White refused to accept that view. As enacted the law did not apply to the transportation of timber and it is of course, untouched by the decision.

Continued on Page 2.

SANTA FE GIVEN ANOTHER TRIAL

Circuit Court of Appeals Reverses Judgment in Famous Rebating Case.

ORDER HINGES ON INTENT

TESTIMONY ON THIS POINT IS STRICKEN FROM RECORD.

San Francisco, May 3.—Holding that the trial court was in error in having stricken from the record certain testimony tending to show the intent of the railroad company in accepting a lower rate than that fixed by the interstate commerce commission, the United States circuit court of appeals reversed today the decision of the district court at Los Angeles in the case of the United States against the Santa Fe Railroad company, wherein the company was found guilty on sixty-six counts of rebating on shipments of lime between Nogales, Ariz., and Los Angeles, Cal., and fined \$330,000. The case was remanded for a new trial.

The appeal was heard by Judges Gilbert, Ross and Morrow.

Following an analysis of the argument of the appellant as to the sufficiency of the indictment under which trial was had, the opinion handed down today expresses the decision of the appellate justices that the trial court properly rejected the demurrer, although a slight divergence from the wording of the statute is noted.

The testimony of F. P. Gregson, freight agent of the Santa Fe, who was put on the stand by the defendant, but whose evidence was stricken out on motion of the prosecution, is recounted. Gregson testified that he had been satisfied by the shippers that the fall 40,000 pounds, constituting a carload lot under the company's tariffs, had been placed in the cars; but that the railroad scales at the point of delivery had shown a considerable loss in transit in each of the sixty-six cases noted in the indictment. On this showing, he said, the company had agreed to accept payment from the shippers, the Grand Canyon Lime & Cement company of Arizona, for the amount actually delivered at the legal carload rate of \$3.50 per 100 pounds.

This evidence was stricken out of the record, and in his instructions Trial Judge Wellborn withdrew it from the attention of the jurors.

The appellate court holds that inasmuch as the freight tariff provides that a shipper shall pay for all over 40,000 pounds contained in a car, and that since the full amount necessary to obtain a carload rate was shipped in each instance, the trial court erred in not allowing this testimony to go before the jury.

Heavy Fine Imposed.

Los Angeles, May 3.—The Santa Fe Railroad company was fined \$330,000 on Nov. 7, 1907, for violating the Elkins law by Judge Olin Wellborn of the United States district court. The railroad company was indicted for giving rebates to the Grand Canyon Lime & Cement company of Arizona on shipments of lime from Nelson, Ariz., to this city. The alleged rebates occurred between May 1905 and July, 1906, and ranged in amounts from 35 cents to \$14.65. The total of the alleged rebates was less than \$500.

The jury in Judge Wellborn's court found the company guilty on sixty-six counts, upon which a fine might have been imposed of from \$1,000 to \$20,000 on each count. The company appealed.

District Attorney Lawler, now Los Angeles, who was in the interior department at Washington, fought the case for the government. Thomas J. Norton, now of the Santa Fe's Chicago offices, defended the company.

NOTE IN BOTTLE TELLS OF ABDUCTION

Reno, May 3.—A bottle containing the following note was fished out of the Truckee river by Edson McLeod, a fisherman, three miles west of Laughton Springs, at 3 o'clock.

"Verdi and have been down the river about three days. I am about crazy. Help me if you find it."

"AGNES HAMILTON."

There was no time nor date on the note. The police department turned over to the sheriff's office, and early in the morning an attempt will be made to trace the sender.

Verdi is a fisherman north of Reno, and the place where the note was found is about nine miles. It is figured that the bottle containing the note must have been dropped into the river at noon today, as the river runs rapidly.



The Autocrat of the Season.

EVER THE WAR DEVOURS THE BEST— SCHILLER'S KEYNOTE OF PEACE

President Taft and David Starr Jordan Unite in Declaring That Universal Peace Is Necessary to Race Progress.

Chicago, May 3.—"Jüder Krieg Ver-schlingt immer die besten." "Ever the war devours the best,"

These words, written by the German poet Schiller a century ago, formed the theme of an address at the opening of the National Peace congress here today by David Starr Jordan, president of the University of California.

"It is through selection that all race progress comes," said Dr. Jordan. "War means always the reversal of selection. The survival of the fittest in the struggle for existence is the primal moving cause of race progress and of race changes. In the red stress of human history this process of selection is sometimes reversed. A reversal of selection is the beginning of degradation. It is degradation itself."

"The only way in which any race as a whole has improved has been through the preservation of its best and the loss of its worst examples. The condition that favors this is democracy, equality before the law, the condition which equalizes opportunity and gives each man the right to stand on his own feet. The only race degeneration ever known is that produced by those forces which destroy the best, leaving for the fathers of the future those who could not be used in the business of war or civilization."

"The effects of emigration run parallel with the effects of war, but with this enormous difference—the strong men who emigrate are not lost to the world. The loss of one region is the gain of another. But the losses in war can yield no corresponding gain."

"The warlike nation of today is the decadent nation of tomorrow. It has never been so in the nature of things; it must ever be."

"Our republic shall endure as long as the human harvest is good, as long as the movement of history, the progress of peace and industry leaves for the future not the worst, but the best of each generation. The republic of Rome lasted as long as there were

Romans, the republic of America will last as long as its people in blood and in spirit remain what we have learned to call Americans."

The following is the text of a letter written by President Taft to Secretary Royal L. Melendy of the National Peace congress, which was read at the opening of that body today.

"My Dear Sir: I greatly regret that I am unable to attend the coming National Peace congress at Chicago and there to express my sympathy with the object of the assembling of so many distinguished men in the interest of world peace. That progress has been made in the matter of peace everywhere by international action and by the moral pressure of the peoples of the earth, any one who has examined the record must admit."

"It is true that armaments go on increasing in cost, but it is also true that the burdens presented by this competition in armaments are growing heavier and heavier, and the problems for solution consistent with their increase become more and more difficult. The possibilities of war now arising come chiefly from irresponsibilities of government, and in those countries where stability of internal control is lacking. The United States has contributed much to the cause of peace by assisting countries weak in respect to their internal government so as to strengthen in them the cause of law and order. This relationship of guardian and ward as between nations and communities, in my judgment, helps along the cause of international peace and indicates progress in civilization. The policy of the United States in avoiding war under all circumstances except those plainly consistent with honor or the highest welfare has been made clear to the world as hardly to need statement at my hands. I can only say that so far as my legitimate influence extends while at the head of this government it will always be exerted in the full favor of peace, not only as between this country and other countries, but between our sister nations. Very sincerely yours,

"WILLIAM H. TAFT."

MERGER HEARING IS CONTINUED

Testimony of Competition Between Railroads Given by Transportation Men.

Portland, May 3.—The hearing by the government in its efforts to dissolve the Harriman merger was continued today before Sylvester G. Williams, special examiner.

While the session was dull, technical and made but little progress, it is understood the government, which is represented by C. Z. A. Severance, special assistant attorney general of Washington, and Charles A. Pace of New York, will endeavor to bring out an entirely new line of evidence from that which was divulged either at the former hearing here in January, 1907, or at the more recent hearing at Salt Lake, where the original suit was brought.

D. C. O'Reilly of the "Diamond O" steamship line was the first witness. He testified that he had been in the Union Pacific and Oregon Railroad & Navigation company freight service both before and during the operation of the merger. His testimony revealed the fact that when Harriman resurrected the various affiliated lines from bankruptcy and welded them into one huge system, he took the four lines, the Union Pacific, Southern Pacific, Oregon Railroad & Navigation and the Oregon Short Line had its separate agencies, and there was keen competition for business. He testified, in effect, that since the merger there was little evidence of competition for business between the roads involved.

W. C. McBride, general agent of the Denver & Rio Grande, and who has served in various capacities for the Union Pacific, the Northwestern and Denver & Rio Grande at Butte and Salt Lake, testified that the effort to obtain business was severe and desultory, by turns.

FIGHTS AGAINST RETURN TO EAST

Broughton Brandenburg Contests Requisition Honored by Governor Gillette.

San Francisco, May 3.—Broughton Brandenburg, the magazine writer who is wanted in New York, forestalled the arrival here today of Detective Fitzsimmons of New York with an extradition warrant for his return to that city, by securing a writ of habeas corpus from Judge Cahanis. The detective stopped over night in Sacramento, where he was issued the writ by Governor Gillette. He arrived here today, but will be powerless to act until after the decision on the writ of habeas corpus, which was made returnable next Saturday. Brandenburg claims that the governor issued the writ of extradition without giving him a hearing, and says he will resist its execution to the utmost.

Sacramento, May 3.—Governor Gillette acknowledged today a requisition issued by Governor Hughes of New York City of Broughton Brandenburg, the author, to answer a charge of grand larceny and forgery pending against him there. There was no one on hand to contest the granting of an order for Brandenburg's return. The requisition in the hands of Norman J. Fitzsimmons representing the district attorney's office in New York was acknowledged at once and then the officer went to San Francisco to receive the author from the hands of the San Francisco police and begin the journey back to New York.

HOLCOMB MADE INSPECTOR

(Special to The Herald.)

Washington, D. C., May 3.—The president today appointed Ernest P. Holcomb of Utah inspector in the Indian service.

Senator Sutherland introduced a bill to pay Frank Blake of St. George \$2,945 for supplies furnished Shoshone Indians from 1875 to 1885.

Senator Smoot has declined the invitation extended by the president of Hawaii to visit the islands with the congressional committee which will go over in July. On account of business engagements Smoot is obliged to decline the invitation.

George D. Pryor and T. O. Owen of Salt Lake City are visiting the capital en route to New York, and were called on the Utah delegation.

Postmaster A. L. Thomas, who is visiting Washington, has arranged for the establishment, July 1, of a new station at the corner of Seventh South and State streets. It is expected by Mr. Thomas he will be given an increase of carriers at the same time.

MOVING PICTURES UNDER BAN.

Albany, N. Y., May 3.—After September 1 next, it will be a misdemeanor to admit to a moving picture performance or to any place of entertainment injurious to health or morals, any child under the age of 16 years, unless accompanied by parent or guardian. A bill containing this provision was signed today by Governor Hughes.

DUEL WITH SAFE CRACKERS

San Francisco, May 3.—Over thirty shots were exchanged early today in a running battle between three cracksmen and Detectives McPhee and Graham in front of the Seamen's institute, in Stuart street. Two of the burglars were captured, one of them, William Carlson, being wounded in the leg. His companion gives the name of Goulma Bell. The third member of the gang escaped.

Several days ago the police were informed that an attempt to rob the Seamen's institute would be made, and have been watching the place. Last night McPhee and Graham concealed themselves in the institute building and saw the criminals enter and begin work on the safe, which contained about \$1,000. When called on to surrender they replied with a volley from here to the other side of the continent. A number of lockers were shipped in a similar manner about a year ago and are reported to be thriving in the Pacific.

LOBSTERS ARE COMING.

Halifax, N. S., May 3.—In furtherance of an effort to establish the lobster industry on the Pacific coast, a carload of live lobsters will be started from here to the other side of the continent. A number of lobsters were shipped in a similar manner about a year ago and are reported to be thriving in the Pacific.

EDUCATOR HURT IN COLLISION

Arthur Hoskin, Professor in Colorado School of Mines, Injured on Way to Salt Lake.

Grand Junction, Colo., May 3.—Arthur Hoskin, professor of mineralogy in the Colorado School of Mines, was perhaps fatally injured today when three empty Pullmans being switched about the local yards crashed into the forward end of the special train carrying 153 members of the senior class of the School of Mines on a trip of inspection to the mines of Utah and Montana.

The special consisted of two tourist and one Pullman sleeper and was standing at the depot without an engine. Professor Hoskin was the occupant of the forward tourist sleeper when the accident occurred.

The party left immediately on another train running under special orders to get the professor to a Salt Lake City hospital.

CITY ELECTION IN DOUBT

Reform Element in Reno Appears to Have the Gambling Element on the Run.

Reno, May 3.—All is excitement today over the municipal election which will be held tomorrow. A bitter fight is on between the saloon men and the gamblers on the one hand, and the municipal league on the other, the latter faction being more appropriately called the anti-gambling league. Indications are that Walter Harris, a banker and candidate of the municipal league, will be elected mayor over A. H. Britt, who represents the gambling interests. The fight will be divided on account of certain independents being candidates. The independents are apt to draw votes from both the gambling and anti-gambling candidates.

GOLDEN ANNIVERSARY OF DISCOVERY OF GOLD

Idaho Springs, Colo., May 3.—The fiftieth anniversary of the discovery of gold in the Rocky mountains, will be celebrated here May 7. The place where the discovery was made has been purchased by Lafayette Hammett of Denver and Salt Lake, and presented to Idaho Springs as a park. A monument has been erected on the spot where the first nugget was found.

HOLDS UP FIVE PEOPLE.

Carpenter Uses Desperate Means to Obtain \$25.

Seattle, May 3.—Charles H. Heltsley, a carpenter, entered the office of the F. Stern Furniture company, in the heart of the city, at noon today, while the store was crowded with shoppers, and, holding up five people in the office with a large pistol, demanded \$25, which was paid to him. He then fled, but was followed to his home and arrested. Heltsley compelled Stern, two clerks and a young woman stenographer and Mrs. Stern to open their pockets and hand over the money. Heltsley collected \$1,000 as easily from Mr. Stern as the \$25, the money being in the safe from which the \$25 was taken and turned over to the robber.

THREE ELECTROCUTED.

Attempts to Save Boy's Life Cause Triple Tragedy.

Paris, May 3.—A boy and two men were electrocuted in Paris today before the eyes of several thousand persons. The boy was walking along a fence flanking the tracks of the belt railroad, when he lost his footing and fell upon an exposed high-tension cable. He was instantly killed.

Workmen jumped over the fence and rushed to the boy's rescue, but the instant he touched his body he again fell dead. Another workman, ignoring the warning cry of the people, tried to save his comrade, but met a similar fate.

IT WAS FINE FISHIN' WEATHER FOR THE JUDGE TO BE TO HOME

Washington, May 3.—Making serious charges against Federal Judges John F. Phillips and Smith McPherson of the western district of Missouri, Representative Murphy of that state introduced a resolution today to investigate their conduct in the litigation between the state and railroad companies over the maximum freight law and to the Missouri 2-cent passenger rate law.

The preamble of the Murphy resolution claims two judges accompanied certain railroad attorneys on a fishing trip, on which occasion members of the party were arrested for violating the game laws of the state.

The resolution charges that Judge Phillips neglects his duty by continued absence from the bench and that when he does preside the court is in session for only four hours each day. Mr. Murphy desires the general conduct of Judge Phillips investigated, contending that he is insulting to the attorneys who are compelled to practice in his court, and also that he has at various times instructed the jury to bring in a certain verdict. If the jurors bring in a different verdict, declares the resolution, Judge Phillips becomes insulting and practically charges that they have violated their oaths as jurors.

The resolution recites the various phases of the litigation, including a statement that the railroad companies agreed to establish certain rates within the state of Missouri in violation of the state anti-trust law. It is stated that the two judges rendered certain decisions which in effect usurped the legislative powers of the general assembly.

TURKS PLANNED BIG MASSACRE OF FOREIGNERS

Wholesale Murders Were to Be Coincidental With Recent Political Events.

THIRTEEN PRISONERS OFFICIALLY EXECUTED

ASSASSINS ARE SHOT BY GOVERNMENT ON THE SCENE OF THEIR CRIME.

Constantinople, May 3.—Documentary evidence has been discovered among the records of the telegraph office here of the knowledge of the Constantinople authorities that the massacre had been planned for the Adana district and that they were to coincide with the political events here.

Other papers have been found indicating that the conspirators of the palace acted in the sultan's name in preparing the military mutiny of April 13. Lists of houses, with notes on the kind of loot to be found therein, were discovered on some of the prisoners now in custody. The arrangements included a general massacre of foreigners in Constantinople, including the diplomatic representatives, on April 24.

The Turkish cabinet resigned today. The political situation is bewildering, and no one can tell what the outcome will be.

This latest ministry was organized April 26, with Tewfik Pasha as prime minister.

Major Youssef Executed.

Major Youssef, his son and three other men, who killed the Syrian deputy, Emir Mohammed Arslan, in front of the parliament, were executed on the spot where they committed the crime. Five others were hanged at the entrance of the ministry of war, and three men at the Stamboul end of the Galata bridge. At the breast of each criminal had been pinned a large placard in Turkish setting forth the sentence of the court. Around the foot of the gibbets on the bridge the early morning buying of fruits, flowers and vegetables proceeded as usual, while the bodies swung in full sight of the great crowds that made their way over the bridge between Stamboul and Galata.

Major Youssef was commandant of the first battalion of the Seventh regiment. Among the non-commissioned officers executed was Hamid Bin Yehar, a sergeant in the Fourth battalion of the Saloniki chasseurs. The men executed on Galata bridge were guilty of the murder of Lieutenant Ellis.

Major Youssef was the man who after the murder of Deputy Arslan made his way to the house of parliament and in a speech denounced the members of the cabinet against the laws of the Koran. Yehar was the man who planned the details of the revolt of April 13, and who was commander-in-chief and practically dictator of Constantinople during the two days following. The other eleven men worked under Yehar.

Bodies Are Exposed.

A member of the court-martial read the sultan's firman confirming the sentences at each place of execution, and priests prayed with the condemned men for two hours before their execution.

The bodies were left hanging until this afternoon and were seen by at least 100,000 persons.

Harem Is Vacated.

Since the deposition of Abdul Hamid there has been a daily exodus of the women of the imperial harem from the Yildiz kiosk. Yesterday forty-five carriages, each containing two or three women, left the city, and today fifteen more were sent proceeding to Stamboul. It is evident that the total number of harem prisoners in the palace must have been prodigious. Palaces have been set apart for their accommodation, but in the political condition of the country their fate is pathetic.

Continued on Page 2.

BORAH REFERS TO ROOSEVELT AS SAVIOR OF REPUBLICANISM

Washington, May 3.—During a speech on the income tax in the senate today, Mr. Borah referred to President Roosevelt as having shaped the destinies of the Republic.

Mr. Borah said that without his leadership this party would have gone out of business.

He added that "without continued adherence to these principles the party will go out of power."

"No man," he added, "is politically so unsensitized or politically so blind as the man who thinks the steamer Hamburg carried away the policies, the principles, the public interest, the common public conscience and the remarkable man bequeathed to his countrymen."

This statement was in connection with a discussion of Mr. Roosevelt's suggestion favoring a graduated inheritance and graduated income tax.

Mr. Borah also quoted Mr. Taft's speech in which he spoke in favor of the income tax.

"Does the senator believe," Mr. Cleveland asked, "that President Taft believed in the constitutionality of the income tax law—in other words, that he believed that the law pronounced unconstitutional by the supreme court was in fact constitutional?"